IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CIVIL WRIT PETITION NO. 6037/2007

MUNNI DEVI SHARMA Vs. SMT. UMA DEVI & ORS.

DATE: 09.10.2007.

HON'BLE MR. JUSTICE K.S. RATHORE

Mr. Sudesh Bansal for the petitioner.
Mrs. Madhuri Singh for the respondents.

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The matter comes up on the application under Article 226(3) of the Constitution of India for seeking vacation of the ex parte interim order dated 14.08.2007 granted by this Court.

At the request of both the parties, the matter is heard finally on merits.

This writ petition is directed against the order impugned dated 02.05.2007 passed by the Additional Civil Judge (Sr. Division) No.3, Jaipur City, Jaipur, whereby evidence of the plaintiff-petitioner was closed and the order dated 30.07.2007, by which the trial Court denied to reopen evidence of plaintiff-petitioner even on the no objection given by the defendants.

I have heard rival submissions of the respective parties and have also carefully gone through the orders impugned dated 02.05.2007 and 30.07.2007 passed by the trial Court.

It appears that the opportunity provided to the plaintiff-petitioner has not been availed and, therefore, the evidence has been closed, but since the defendants have not objected if the plaintiff is allowed to adduce his evidence, without considering this fact the evidence of the plaintiff-petitioner has been closed.

In the interest of justice, I grant one chance to the plaintiff-petitioner to adduce his evidence and submit additional affidavit on the date fixed by the trial Court subject to condition of payment of Rs. 2,000/- as cost. In case the plaintiff-petitioner failed to deposit the amount of cost and failed to adduce evidence and submit additional affidavit on the date fixed by the trial Court, the impugned orders dated 02.05.2007 and 30.07.2007 shall remain in force.

With these observations, the writ petition stands disposed of.

The ex parte interim order dated 14.08.2007 granted by this Court is hereby vacated. The stay application also stands rejected.

The application under Article 226(3) of the Constitution of India stands allowed.

(K.S. RATHORE),J.

/KKC/